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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,285	06/06/2001	Takayuki Nagashima	'35.C11515 Div.	6926
5514	7590	10/05/2005		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 10/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/874,285

Applicant(s)

NAGASHIMA ET AL.

Examiner

Hunter B. Lonsberry

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 80-84, 86, 88, 90, 94, 96 and 105-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 80-84, 86, 88, 90, 94, 96 and 105-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 80-84, 86, 88, 90, 94, 96, and 105-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,802,502 to Gell in view of U.S. Patent 5,629,866 to Carrubba.

Regarding claim 80, Gell discloses in figure 13, an image transmission apparatus in said apparatus comprising:

a reception unit 905, adapted to receive from an external terminal 900 (column 12, lines 42-63), an image transmission request and an image quality request (column 12, line 61-column 13, line 5);

a processing unit, adapted to process an image designated by the image transmission request in accordance with the image quality request (column 13, lines 5-

Art Unit: 2611

17), the processing unit then selects the appropriate device which will stream the images to a user);

a transmission unit (video supply station connected via network 903, column 12, lines 34-26, column 13, lines 15-17), adapted to transmit the processed image to the external terminal (column 13, lines 15-17) and

a deriving unit, adapted to derive a charge based on the image quality set by the image quality request. (column 13, lines 3-11).

Gell fails to disclose setting the quality of an image designated by the image transmission request.

Carruba discloses a VOD system in which a user transmits a video request and a quality request which for an additional charge, provides the user with a second layer of data that improves the quality of the video (column 4, lines 13-42, column 6, lines 40-65, column 7, lines 12-22), thus enhancing program provider revenue by offering a premium version of the content.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize the transmission quality request of Carruba, for the advantage of enhancing program provider revenue by offering a premium version of the content.

Regarding claim 81, Gell discloses that the pricing stations supply the database station 905 (storage unit) with pricing data for the VOD services, which include quality

Art Unit: 2611

data such as resolution, wide/narrow screen format, stereo/mono sound (column 12, lines 53-column 13, line 5).

Gell does not disclose if the charge table provides a rate per unit time for each image quality, but in a related embodiment, Gell does disclose that pricing for transmission may be determined as a rate per unit time and for quality of the transmission (column 5, line 38-46, 56-column 6, line 20), thus enabling selection criteria in order to determine an appropriate tradeoff of quality versus cost.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the quality selection of Gell to include different rates for different quality levels, as taught in a related embodiment in Gell, thus enabling selection criteria in order to determine an appropriate tradeoff of quality versus cost.

Gell fails to disclose whether or not a table of fees corresponding to image quality is stored within the charging unit.

Carruba discloses a VOD system in which a user may pay different rates depending on the quality of the video stream they have requested (column 7, lines 12-22), thus enhancing program provider revenue by offering a premium version of the content.

Carruba inherently makes use of a table of fees, as Carruba discloses that the basic quality is charged at a lower rate, and the complementary part at a higher rate (column 7, lines 19-21).

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize the transmission quality request and variable fees of

Carruba, for the advantage of enhancing program provider revenue by offering a premium version of the content.

Regarding claim 82, Gell discloses that the processor determines charges by per minute, per packet or per bit of transmission (column 5, lines 38-40).

Regarding claims 83, 90, and 96, Gell discloses that the pricing stations supply the database station 905 with pricing data for the VOD services, which include quality data such as resolution, wide/narrow screen format, stereo/mono sound (column 12, lines 53-column 13, line 5).

Gell does not disclose the use of a measurement unit adapted to measure a transmission time of a requested image. However, in a related embodiment, Gell discloses that transmission of data may be billed by a per minute, per packet, or per bit basis, this data is then logged and stored in order to bill the user (column 5, lines 37-40, column 6, lines 26-36), thus billing a user to transfers more data more than a user who transfers less data.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize a measurement unit to log and bill a user as taught in a related embodiment of Gell, thus billing a user to transfers more data more than a user who transfers less data.

Regarding claim 84, 105 and 107, Gell discloses that the pricing stations supply the database station 905 with pricing data for the VOD services, which include quality data such as resolution, wide/narrow screen format, stereo/mono sound (column 12, lines 53-column 13, line 5).

Gell does not disclose the use of a storage unit to store an amount of charge for each user who transmits an image transmission request. However, in a related embodiment, Gell discloses that transmission of data may be billed by a per minute, per packet, or per bit basis, this data is then logged and stored in order to bill the user (column 5, lines 37-40, column 6, lines 26-36, the predetermined time period is the per minute charge), thus billing a user to transfers more data more than a user who transfers less data.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize a measurement unit to log and bill a user as taught in a related embodiment of Gell, thus billing a user to transfers more data more than a user who transfers less data.

Regarding claim 86, Gell discloses that the image quality is a resolution of an image (column 12, lines 12-60).

Regarding claim 88, Gell discloses an image transmission method in an image transmission system, said method comprising the steps of:

Art Unit: 2611

receiving an image transmission request from an external terminal 900 (column 12, lines 42-63) and an image quality request (column 12, line 61-column 13, line 5);

processing the image designated by the image transmission request in accordance with the image quality request (column 13, lines 5-17);

transmitting the processed image to the external terminal (column 12, lines 34-26, column 13, lines 15-17), and

deriving a charge based on the image quality request and a predetermined charge table (column 13, lines 3-11).

Gell fails to disclose setting the quality of an image designated by the image transmission request and processing it.

Carruba discloses a VOD system in which a user transmits a video request and a quality request which for an additional charge, provides the user with a second layer of data that improves the quality of the video (column 4, lines 13-42, column 6, lines 40-65, column 7, lines 12-22), thus enhancing program provider revenue by offering a premium version of the content.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize the transmission quality request of Carruba, for the advantage of enhancing program provider revenue by offering a premium version of the content.

Regarding claim 94, Gell discloses a computer program for implementing an image transmission method in an image transmission system, said program comprising:

code for a reception step of receiving from an external terminal 900 (column 12, lines 42-63) an image transmission request and an image quality request (column 12, line 61-column 13, line 5);

code for a processing step of processing an image designated by the image transmission request in accordance with the image quality request (column 13, lines 5-17);

code for a transmitting step of transmitting the processed image to the external terminal (column 12, lines 34-26, column 13, lines 15-17), and

code for a deriving step of deriving a charge based on the image quality request and a predetermined charge table (column 13, lines 3-11).

Gell fails to disclose setting the quality of an image designated by the image transmission request and processing the image.

Carruba discloses a VOD system in which a user transmits a video request and a quality request which for an additional charge, provides the user with a second layer of data that improves the quality of the video (column 4, lines 13-42, column 6, lines 40-65, column 7, lines 12-22), thus enhancing program provider revenue by offering a premium version of the content.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Gell to utilize the transmission quality request of Carruba, for the advantage of enhancing program provider revenue by offering a premium version of the content.

Regarding claims 106 and 108, Gell discloses that the image quality is a resolution of an image (column 12, lines 12-60).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,689,800 to Downs: Video Feedback for Reducing Data Rate or Increasing Quality in a Video Processing System.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-


Art Unit: 2611

272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL



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